

2003

STATE OF NEBRASKA

STATUTES RELATING TO OPTOMETRY

NEBRASKA HEALTH AND HUMAN SERVICES SYSTEM



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STATUTES PERTAINING TO THE PRACTICE OF OPTOMETRY

71-1,133. Practice of optometry, defined. For purposes of the Uniform Licensing Law, the practice of optometry means one or a combination of the following, without the use of surgery:

(1) The examination of the human eye to diagnose, treat, or refer for consultation or treatment any abnormal condition of the human eye, ocular adnexa, or visual system;

(2) The employment of instruments, devices, pharmaceutical agents, other than oral therapeutic agents used in the treatment of glaucoma, and procedures intended for the purpose of investigating, examining, diagnosing, treating, managing, or correcting visual defects or abnormal conditions of the human eye, ocular adnexa, or visual system or for the removal of superficial eyelid, conjunctival, and corneal foreign bodies and the ordering of procedures and laboratory tests rational to the diagnosis of conditions or diseases of the human eye, ocular adnexa, or visual system; or

(3) The prescribing and application of lenses, devices containing lenses, prisms, contact lenses, ophthalmic devices excluding laser surgery, orthoptics, vision training, pharmaceutical agents, and prosthetic devices to correct, relieve, or treat defects or abnormal conditions of the human eye, ocular adnexa, or visual system. The practice of optometry does not include the treatment of infantile/congenital glaucoma which means the condition is present at birth.

Source: Laws 1927, c. 167, § 111, p. 487; C.S. 1929, § 71-1601; R.S. 1943, § 71-1,133; Laws 1979, LB 9, § 1; Laws 1986, LB 131, § 1; Laws 1987, LB 116, § 1; Laws 1993, LB 429, § 2; Laws 1998, LB 369, § 1. Effective date July 15, 1998.

71-1,134. Practice of optometry; sections, how construed. The practice of optometry under sections 71-1,133 to 71-1,136.09 shall not be construed to:

(1) Include merchants or dealers who sell glasses as merchandise in an established place of business or who sell contact lenses from a prescription for contact lenses written by an optometrist or a person licensed to practice medicine and surgery and who do not profess to be optometrists or practice optometry as defined in section 71-1,133;

(2) Restrict, expand, or otherwise alter the scope of practice governed by other statutes; or

(3) Include the performance by an optometric assistant, under the supervision of a licensed optometrist, of duties prescribed in accordance with rules and regulations adopted and promulgated by the department upon recommendation of the Board of Optometry.

Source: Laws 1927, c. 167, § 112, p. 487; C.S. 1929, § 71-1602; R.S. 1943, § 71-1,134; Laws 1979, LB 9, § 2; Laws 1998, LB 369, § 2; Laws 2002, LB 1062, § 30. Operative date July 20, 2002.

71-1,135. Optometry; license; requirements. Every applicant for a license to practice optometry shall: (1) Present proof that he or she is a graduate of an accredited school or college of optometry; and (2) pass an examination approved by the Board of Optometry. After August 25, 1989, the examination shall cover all subject matter included in the practice of optometry as defined in section 71-1,133 for applicants who have graduated from an accredited optometry school after such date. After October 1, 1997, the examination shall cover all subject matter included in the practice of optometry for applicants who have graduated from an accredited optometry school after such date.

Source: Laws 1927, c. 167, § 113, p. 487; C.S. 1929, § 71-1603; R.S. 1943, § 71-1,135; Laws 1979, LB 9, § 3; Laws 1989, LB 323, § 3; Laws 1998, LB 369, § 3; Laws 1999, LB 828, § 95. Effective date August 28, 1999.

71-1,135.01. Pharmaceutical agents, defined. For purposes of the Uniform Licensing Law, unless the context otherwise requires:

(1) Pharmaceutical agents, for diagnostic purposes, means anesthetics, cycloplegics, and mydriatics; and

(2) Pharmaceutical agents, for therapeutic purposes, means topical ophthalmic pharmaceutical agents which treat eye diseases, infection, inflammation, and superficial abrasions, or oral analgesics, including oral analgesics enumerated in Schedules III and IV of section 28-405 necessary to treat conditions of the eye, ocular adnexa, or visual system, or oral pharmaceutical agents for the treatment of diseases or infections of the eye, ocular adnexa, or visual system, or oral anti-inflammatory agents to treat conditions of the eye, ocular adnexa, or visual system, excluding steroids and immunosuppressive agents.

Source: Laws 1979, LB 9, § 4; Laws 1986, LB 131, § 2; Laws 1993, LB 429, § 4; Laws 1998, LB 369, § 4. Effective date July 15, 1998.

71-1,135.02. Optometrist; pharmaceutical agents; use; certification; treatment of glaucoma. (1)(a) No optometrist licensed in this state, except an optometrist who has been certified by the department prior to April 30, 1987, or by another state with substantially equivalent requirements for certification as determined by the department upon recommendation of the Board of Optometry to use topical ocular pharmaceutical agents for diagnostic purposes prior to April 30, 1987, shall use topical ocular pharmaceutical agents for diagnostic purposes authorized under subdivision (2) of section 71-1,133 unless such person (i) submits to the board the required fee and evidence of satisfactory completion of a pharmacology course at an institution accredited by a regional or professional accrediting organization which is recognized by the United States Department of Education and approved by the Department of Health and Human Services Regulation and Licensure, (ii)

passes an examination approved by the department, and (iii) has been certified by the department upon the recommendation of the board as qualified to use topical ocular pharmaceutical agents for diagnostic purposes.

(b) The department may approve for certification pursuant to subdivision (1)(a)(i) of this section a pharmacology course if such course includes:

(i) A study of ocular anesthetics, mydriatics, cycloplegics, ocular toxicity of pharmaceutical agents, ocular allergies of ocular agents, and pharmacologic effects of ocular drug substances;

(ii) The consideration of the mechanism of action of anesthetics, cycloplegics, and mydriatics in human beings and the uses of such substances in the diagnosis of occurring ocular disorders;

(iii) At least one hundred hours of classroom education, clinical training, and examination; and

(iv) The correlation of the utilization of pharmaceutical agents and optical instrumentation and procedures.

(c) The department may approve for certification pursuant to subdivision (1)(a)(ii) of this section an examination if such examination is:

(i) Based upon the competencies taught in a pharmacology course; and

(ii) Administered by an institution accredited by a regional or professional accrediting organization which is recognized by the United States Department of Education and approved by the Department of Health and Human Services Regulation and Licensure.

(2)(a) No optometrist licensed in this state on or after April 30, 1987, shall use topical ocular pharmaceutical agents for therapeutic purposes authorized under subdivision (3) of section 71-1,133 unless such person (i) submits to the board the required fee and evidence of satisfactory completion of a minimum of one hundred hours since January 1, 1984, of which forty hours shall be classroom education and sixty hours shall be supervised clinical training as it applies to optometry with particular emphasis on the examination, diagnosis, and treatment of the eye, ocular adnexa, and visual system offered by a school or college approved by the department, (ii) passes an examination approved by the department, (iii) has been certified by the department upon the recommendation of the board to use topical ocular pharmaceutical agents for therapeutic purposes, and (iv) has been certified by the department upon the recommendation of the board to use topical ocular pharmaceutical agents for diagnostic purposes.

(b) The department may approve for certification pursuant to subdivision (2)(a)(i) of this section a therapeutic course or courses of instruction, from an institution accredited by a regional or professional accrediting organization which is recognized by the United States Department of Education, that have been completed after January 1, 1984. Such course or courses shall include, but not be limited to:

(i) Review of general pharmacology and therapeutics;

(ii) Review of ocular therapeutic pharmacology;

(iii) Diagnosis and treatment of diseases of the eye, ocular adnexa, and visual system;

(iv) Diagnosis of corneal disease and trauma including corneal foreign bodies;

(v) Diagnosis and treatment of anterior segment eye diseases;

(vi) Clinical procedures related to the diagnosis and treatment of the eye, ocular adnexa, and visual system;

(vii) Ocular manifestations of systemic disease;

(viii) Review of systemic disease syndromes;

(ix) Ocular therapy including management of acute systemic emergencies; and

(x) Consultation criteria in ocular disease and trauma.

(3)(a) An optometrist who is licensed and certified to use pharmaceutical agents for therapeutic purposes on July 15, 1998, who graduated from an accredited school of optometry prior to January 1, 1996, shall complete the educational requirements relative to the treatment of glaucoma, as determined by the board, prior to January 1, 2000, and shall complete such educational requirements prior to treating glaucoma. Failure to complete such education prior to January 1, 2000, shall result in the revocation of the licensee's certification to use pharmaceutical agents for therapeutic purposes.

(b) An optometrist who applies for licensure on or after July 15, 1998, who graduated from an accredited school of optometry prior to January 1, 1996, shall complete the educational requirements relative to the treatment of glaucoma, as determined by the board, prior to being issued a license to practice optometry.

(c) An optometrist who graduated from an accredited school of optometry after January 1, 1996, shall be deemed to have met the educational requirements for certification to use pharmaceutical agents for therapeutic purposes which includes the treatment and management of glaucoma.

Source: Laws 1979, LB 9, § 5; Laws 1986, LB 131, § 3; Laws 1987, LB 116, § 2; Laws 1988, LB 1100, § 41; Laws 1994, LB 987, § 1; Laws 1996, LB 1044, § 439; Laws 1998, LB 369, § 5; Laws 1999, LB 828, § 96; Laws 2003, LB 242, § 50. Operative date July 1, 2004.

71-1,135.03. Pharmacology course; glaucoma course; approval; requirements. (1) No course or courses in pharmacology shall be approved by the department upon the recommendation of the Board of Optometry unless taught by an institution which is accredited by a regional or professional accrediting organization which is recognized by the United States Department of Education and the transcript credit for the course or courses is certified to the board by the institution.

(2) No course of instruction in the treatment of glaucoma shall be approved by the department upon the recommendation

of the board unless it is taught by an institution that is recognized by the United States Department of Education or its successor and the content for the course is certified to the board by the institution as being comparable in content to a course of instruction in the treatment of glaucoma required by other professional boards for licensees or registrants allowed to treat glaucoma in the scope of their professional practice.

Source: Laws 1979, LB 9, § 6; Laws 1994, LB 987, § 2; Laws 1998, LB 369, § 6; Laws 1999, LB 828, § 97. Effective date August 28, 1999.

71-1,135.04. License; renewal; statement as to use of pharmaceutical agents. In issuing a license or renewal, the Board of Optometry shall state whether such person licensed in the practice of optometry has been certified to use pharmaceutical agents pursuant to section 71-1,135.02 and shall determine an appropriate means to further identify those persons who are certified in the diagnostic use of such agents as provided in subdivision (2) of section 71-1,133 or therapeutic use of such agents as provided in subdivision (2) or (3) of section 71-1,133.

Source: Laws 1979, LB 9, § 7; Laws 1986, LB 131, § 4; Laws 1993, LB 429, § 5; Laws 1998, LB 369, § 7; Laws 1999, LB 828, § 98. Effective date August 28, 1999.

71-1,135.05. Legislative findings and declarations. The Legislature finds and declares:

(1) That the scope of teaching and practice of optometry has changed and that it is in the public interest that any person seeking initial licensure as an optometrist and having graduated from an accredited optometry school after August 25, 1989, in addition to any other requirements of the Uniform Licensing Law, demonstrate adequate knowledge and training in all areas of the practice of optometry as defined in section 71-1,133 and satisfactorily complete the educational requirements set forth in section 71-1,135.02; and

(2) That it is in the public interest that no optometrist licensed pursuant to the Uniform Licensing Law use pharmaceutical agents for diagnostic or therapeutic purposes unless he or she has taken the examination prescribed in section 71-1,135 after August 25, 1989, or unless he or she is certified pursuant to section 71-1,135.02.

Source: Laws 1989, LB 323, §1; Laws 1993, LB 429, §6. Effective date September 9, 1993.

71-1,135.06. Use of pharmaceutical agents by licensed optometrist; standard of care. (1) A licensed optometrist who administers or prescribes pharmaceutical agents for examination or for treatment shall provide the same standard of care to patients as that provided by a physician licensed in this state to practice medicine and surgery utilizing the same pharmaceutical agents for examination or treatment.

(2) A licensed optometrist who administers or prescribes pharmaceutical agents for the treatment of glaucoma shall provide the same standard of care to patients as that provided by a physician licensed in this state to practice medicine and surgery utilizing the same pharmaceutical agents for the examination and treatment of glaucoma.

Source: Laws 1993, LB 429, §3; Laws 1998, LB 369, §8. Effective date July 15, 1998.

71-1,135.07. Optometric assistants; authorized. Any licensed optometrist may employ optometric assistants. Such assistants, under the supervision of a licensed optometrist, may perform such duties as are prescribed in accordance with rules and regulations adopted and promulgated by the department upon recommendation of the Board of Optometry.

Source: Laws 2002, LB 1062, § 31. Operative date July 20, 2002.

71-1,136. Optometry; approved schools; requirements. No school of optometry shall be approved by the Department of Health and Human Services Regulation and Licensure as an accredited school unless the school is accredited by a regional or professional accrediting organization which is recognized by the United States Department of Education.

Source: Laws 1927, c. 167, §114, p. 488; C.S. 1929, §71-1604; R.S. 1943, §71-1,136; Laws 1965, c. 415, §1, p. 1325; Laws 1979, LB 9, §8; Laws 1994, LB 987, §3; Laws 1996, LB 1044, §440. Operative date January 1, 1997.

71-1,136.01. Optometry; license; renewal; continuing competency requirements. Each Nebraska-licensed optometrist in active practice within the State of Nebraska shall, on or before August 1 of each even-numbered year, complete continuing competency activities as required by the Board of Optometry pursuant to section 71-161.09 as a prerequisite for the licensee's next subsequent license renewal.

Source: Laws 1965, c. 415, § 2, p. 1325; Laws 1985, LB 250, § 14; Laws 1986, LB 926, § 46; Laws 1988, LB 1100, § 42; Laws 1997, LB 307, § 123; Laws 1999, LB 828, § 99; Laws 2001, LB 209, § 10; Laws 2002, LB 1021, § 21. Operative date January 1, 2003.

71-1,136.02. Repealed. Laws 2003, LB 242, s. 154.

71-1,136.03. Department; adopt rules and regulations. The department, upon recommendation of the Board of Optometry, may adopt and promulgate such rules and regulations as may be reasonable and proper for the purpose of

administering such provisions of sections 71-1,133 to 71-1,136.09 as properly fall within the jurisdiction of the board.

Source: Laws 1965, c. 415, § 4, p. 1326; Laws 1982, LB 449, § 5; Laws 1987, LB 473, § 24; Laws 1988, LB 1100, § 43; Laws 1996, LB 1044, § 441; Laws 1999, LB 828, § 101; Laws 2002, LB 1062, § 32. Operative date July 20, 2002.

71-1,136.04. Optometry; patient's freedom of choice. No agencies of the state or its subdivisions administering relief, public assistance, public welfare assistance, or other health service under the laws of this state, including the public schools, shall in the performance of their duties, interfere with any patient's freedom of choice in the selection of practitioners licensed to perform examinations for refractions or corrections within the field for which their respective licenses entitle them to practice.

Source: Laws 1967, c. 431, §1, p. 1319.

71-1,136.05. Nebraska Optometry Education Assistance Contract Program; purpose. There is hereby established the Nebraska Optometry Education Assistance Contract Program for the purpose of providing opportunities for citizens of this state desiring to pursue study in the field of optometry at accredited schools and colleges outside the state.

Source: Laws 1974, LB 911, §1.

71-1,136.06. Nebraska Optometry Education Assistance Contract Program; administered; Board of Regents; rules and regulations; adopt; reports; conditions. The program established by section 71-1,136.05 shall be administered by the Board of Regents of the University of Nebraska. The board shall adopt appropriate rules and regulations to carry out the provisions of sections 71-1,136.05 to 71-1,136.08 and negotiate contract arrangements with accredited schools and colleges of optometry, as provided in section 71-1,136, for the admission and education of qualified applicants who are citizens of Nebraska and who have demonstrated their interest, aptitude, and readiness for study in the field of optometry. The board shall require reports each year from institutions receiving payments showing the progress and suitability of each student being aided and containing such other information as the board may deem proper.

Source: Laws 1974, LB 911, §2.

71-1,136.07. Nebraska Optometry Education Assistance Contract Program; financial assistance; number of students. The total number of students receiving annual financial payments made under sections 71-1,136.05 to 71-1,136.08 shall not exceed sixty students during any school year. No more than fifteen of these students shall be students enrolling in a college of optometry for their first year of instruction.

Source: Laws 1974, LB 911, §3.

71-1,136.08. Nebraska Optometry Education Assistance Contract Program; financial assistance; limitation. Financial assistance under sections 71-1,136.05 to 71-1,136.08 shall be continued not to exceed four years until the enrolled student has received a degree in optometry. Contracts with schools and colleges shall set forth terms and provisions for continuation of such payments.

Source: Laws 1974, LB 911, §4.

71-1,136.09. Board of Optometry; report complaints; Attorney General; duty. The Board of Optometry shall provide the Attorney General with copies of all complaints it receives which allege or may involve possible statutory violations by the licensee. The Attorney General shall then determine the appropriate legal action to take, if any, against the licensee.

Source: Laws 1982, LB 449, § 7; Laws 1999, LB 828, § 102. Effective date August 28, 1999.